

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket No.

3715.12-1

In re Application of: **GIOVANNI M. PAULETTI ET AL.**

Application No. **10/600,849**

Filed: **06/20/2003** JAN 22 2008

For: **INTRAVAGINAL MUCOSAL OR TRANSMUCOSAL DELIVERY OF ANTIMIGRAINE AND ANTINAUSEA DRUGS**

The owner, **UMD, INC.** of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number **11/126,863**, filed on **05/10/2005**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record. **01/22/2008 FHETEK11 00000025 161331 10600849**

3. Owner/applicant is  Small entity  Large entity **14 65.00 DA**

The terminal disclaimer fee under 37 CFR 1.20(d) is **\$65.00** and is to be paid as follows:

A check in the amount of the fee is enclosed.  
 The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number **16-1331**.  
 Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

PTO suggested wording for terminal disclaimer was

unchanged.  changed (if changed, an explanation should be supplied.)

*Hana Verny*  
Signature

Name and Address of Person Signing

HANA VERNY (REG. NO. 30,518)  
PETERS VERNY, LLP  
425 SHERMAN AVENUE, SUITE 230  
PALO ALTO, CA 94306  
TEL: (650) 324-1677  
FAX: (650) 324-1678

Dated: **JANUARY 16, 2008**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on **01/16/2008**.

(Date)

*Melinda Tompkins*  
Signature of Person Mailing Correspondence

MELINDA TOMPKINS

Typed or Printed Name of Person Mailing Correspondence

O I P E I A P 35  
JAN 22 2008  
U S P T O  
T R A D E M A R K S C I

Terminal Disclaimer To Obviate A Double  
Patenting Rejection Over A Prior Patent

Docket No.

3715.12-1

In Re Application Of: GIOVANNI M. PAULETTI, ET AL.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/600,849	06/20/2003	SCHLIENTZ, NATHAN	23308	1616	8490

Invention: INTRAVAGINAL MUCOSAL OR TRANSMUCOSAL DELIVERY OF ANTIMIGRAINE AND  
ANTINAUSEA DRUGS

Owner of Record: UND, INC.

COMMISSIONER FOR PATENTS:

The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,197,327. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record.

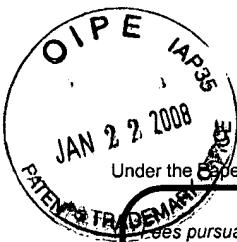
  
Signature

Dated: JANUARY 16, 2008

HANA VERNY (REG. NO. 30,518)

Typed or Printed Name

Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.  
 PTO suggested wording for terminal disclaimer was unchanged.  
 Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.



Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2008

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ **\$65.00**)

## Complete if Known

Application Number	10/600,849
Filing Date	06/20/2003
First Named Inventor	PAULETTI, GIOVANNI M.
Examiner Name	SCHLIENTZ, NATHAN W.
Art Unit	1616
Attorney Docket No.	3715.12-1

## METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: 16-1331 Deposit Account Name: PETERS VERNY, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input checked="" type="checkbox"/> Charge any additional fee(s) or any underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input type="checkbox"/> Credit any overpayments

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## FEE CALCULATION

### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fees Paid (\$)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

### 2. EXCESS CLAIM FEES

#### Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Small Entity	
Fee (\$)	Fee (\$)
50	25
210	105
370	185
Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

Total Claims      Extra Claims      Fee (\$)      Fee Paid (\$)  
- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ \$50.00 = \_\_\_\_\_ \$0.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims      Extra Claims      Fee (\$)      Fee Paid (\$)  
- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ \$210.00 = \_\_\_\_\_ \$0.00

HP = highest number of independent claims paid for, if greater than 3.

### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	0 / 50	0 (round up to a whole number)	x \$260.00 =	\$0.00

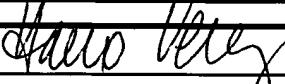
### 4. OTHER FEE(S)

Non-English specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): TERMINAL DISCLAIMER

\$65.00

## SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	30,518	Telephone	(650) 324-1677
Name (Print/Type)		MANA VERNY		Date	01/16/2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.